

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Alexandria Division

IN RE: CAPITAL ONE CONSUMER )  
DATA SECURITY BREACH LITIGATION ) MDL No. 1:19md2915 (AJT/JFA)  
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This Document Relates to ALL Cases  
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**PRETRIAL ORDER #23**

On Friday, April 24, 2020, plaintiffs filed a motion to compel and a notice of hearing for May 1, 2020. (Docket nos. 412, 415). Later that day the court entered Pretrial Order #22 modifying the expedited briefing schedule and indicated that any hearing on the motion would held on May 8, 2020. (Docket no. 417). On April 27, 2020, Capital One filed a motion to extend the briefing schedule to allow for the full briefing time afforded in Local Civil Rule 7. (Docket no. 418). If the full briefing schedule in Local Civil Rule 7 was provided, it would require moving the hearing date to May 22, 2020 in order for the court to have time to review the reply brief prior to any hearing. Capital One indicates that plaintiffs' do not oppose the motion but note that extending the briefing schedule on this issue may impact other dates on the calendar. (*Id.* at 1).

While Capital One is correct that this motion presents an important discovery issue, it is also an issue that the parties have been aware of and discussing for months. While the specific arguments and case citations in plaintiffs' memorandum may not have been fully known to Capital One until the filing of the motion, Capital One has had a significant amount of lead time to prepare its legal arguments and factual basis to assert **its claim of privilege or work product protection** for these materials. Nevertheless, the court wants to give the parties sufficient time

